

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1556 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

FULCHAND T ZARIWALA

Versus

UNION OF INDIA & ORS.

Appearance:

Mr. D.M. Thakkar, for Petitioner
None present for Respondent No. 1 to 3
Mr RR Shah for Respondent No. 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/07/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner filed this Special Civil Application before this Court in which grievance has been made that the action of the respondents No.1, 2 and 3 insisting upon furnishing Bank guarantee to the tune of Rs.40,000/- for four months for every wagon claimed without the relevant railway receipt, be declared illegal and arbitrary.

2. The petitioner has come up with the case that to transport coal from the coal mines, he hired wagon from

the railway and the freight chargeable for the consignment was paid in advance. The petitioner was not given railway receipts of the consignment then and there and it takes a long time to reach the petitioner and as such delivery of goods is to be taken without relevant railway receipts of the consignment. Earlier it was permitted on indemnity bond but subsequently the respondents No.1 to 3 have decided to take the bank guarantee.

3. I fail to see any illegality or arbitrariness in the action of the respondents No.1 to 3 to demand bank guarantee from the petitioner. In case the petitioner prays for giving of the delivery of consignment without producing of the railway receipt of consignment then the action of railway authorities is perfectly justified to insist for furnishing of the bank guarantee. This has been insisted to discourage any fraudulent practice. No prejudice is caused to the petitioner whatsoever and further, the petitioner cannot have both, head and tail and if he insisted for delivery of the consignment without railway receipt, then the railway authorities are perfectly justified to protect its interest, by demanding bank guarantee. In the result, this Special Civil Application fails and the same is dismissed. Rule is discharged.

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(sunil)